

Docket No. JAB-1741US

REMARKS/ARGUMENTS

Claims 1-15 are currently pending in this application. The claims in this application are subject to an election of species requirement. Claims 1-3 and 9-15 have been indicated to be generic claims by the Examiner. Claims 4 and 5 have been alleged to comprise two independent species of polymers used for obtaining enhanced dissolution of the composition as claimed.

The Office Action also alleges that the species in claims 4 and 5 do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2 the species lack the same or corresponding special technical features in that the claims do not make a contribution over the prior art. However, applicants' attorney respectfully traverses this finding and submits that this finding of lack of unity is in error and requests its withdrawal.

Applicants' attorney respectfully submits that 13.2 states that "The expression "special technical features" shall mean those technical feature that define a contribution which each of the claimed inventions, considered as a whole makes over the prior art." In the present invention the polymers in claims 4 and 5 enhance dissolution, (the technical feature). WO 99/33467 discloses that there may be significant differences in the behavior of these Eudragit E and hydroxypropyl methylcellulose. However, applicant's attorney submits that both polymers are still recognized by the art as dissolution agents. See Jung page 7, line 8. Consequently satisfying the requirement of Annex B Part 1(f)(i)(B)(2) that the polymers will behave in a similar manner (e.g. to enhance dissolution) *in the context of the claim*. However, this does not mean that the polymers may not show significant differences in comparisons of the claimed compositions.

Thus, the invention *when considered as a whole* comprises the solid dispersion of claim 1 wherein the polymer that enhances the dissolution is specified in claims 4 and 5. Accordingly, the invention *when considered as a whole* makes a contribution over the art of record. Therefore, segregating the polymers of claim 4 and 5 for the *invention as a whole* and attacking the claim element by element for unity of invention purposes under 13.2 is improper in view of

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the common technical feature possessed by the polymers. Consequently applicants' attorney respectfully submits that unity of invention exist between claims 4 and 5.

In response to this requirement to elect a species Applicants elects Eudragit E100.

Claims 4, 6, 7, are directed to the elected species.

Applicant respectfully requests that a timely Notice of Allowance of claims 1-15.

Respectfully submitted,

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